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Motorola Inc.
Intellectual Property Department
20 Cabot Blvd.
Mansfield, MA. 02048

In re Application of	:	
HUMBLET	:	DECISION ON PETITION
Application No.: 09/051,687	:	
PCT No.: PCT/FR96/01657	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 23 October 1996	:	
Priority Date: 23 October 1995	:	
Attorney Docket No.: CX097033P01	:	
For: DIGITAL-TO-ANALOG	:	
COMMUNICATION DEVICE AND	:	
METHOD	:	

This decision is in response to applicant's "Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 10 October 2000 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 October 1996, applicant filed international application PCT/FR96/01657, which claimed priority of an earlier application filed 23 October 1995. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 May 1997, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 April 1998.

On 15 April 1998, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a translation of the international application into English as required by 35 U.S.C. 371(c)(2). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 12 August 1998, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of \$130.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e).

On 01 February 2000, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) for failing to respond to the 12 August 1998 "NOTIFICATION OF

MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) within the time period set therein.

On 10 October 2000, applicant filed the present petition accompanied by an executed declaration and power of attorney.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was providing an oath or declaration executed by all of the named inventors and payment of the \$130.00 surcharge. Applicant has provided the executed declaration along with the present petition and authorized deduction of any fees which may be required.

As to Item (2), applicant paid the \$1240.00 petition fee.

With regard to Item (3), applicant's statement that, "The abandonment was unintentional." is being construed to mean that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant must contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above, the petition for revival is **GRANTED**.

As authorized, \$130.00 will be deducted from Deposit Account 13-4772 for payment of

the appropriate surcharge for providing the declaration later than thirty months from the priority date.

This application will be given an international application filing date of 23 October 1996 and a date of **10 October 2000** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, specifically, issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903).



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